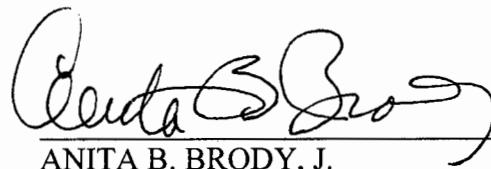


IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF :  
AMERICA, :  
Plaintiff, : CRIMINAL ACTION  
: No. 03-271-1  
v. :  
: JEREMY RODRIGUEZ, :  
Defendant. :  
:

**ORDER**

AND NOW, this 10<sup>th</sup> day of November, 2015, it is ORDERED that Jeremy Rodriguez's *Pro Se* Motion to Modify/Reduce Sentence (ECF No. 96) is DENIED.<sup>1</sup>



ANITA B. BRODY, J.

Copies VIA ECF on \_\_\_\_\_ to:

Copies MAILED on 11/12/2015 to:  
JEREMY RODRIGUEZ, ACF

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<sup>1</sup> Rodriguez files his motion for a reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2). He seeks to have his sentence of 240 months' imprisonment reduced based on an amendment to the U.S. Sentencing Guidelines ("U.S.S.G."), Amendment 782, that lowers the base offense level on the drug quantity table in U.S.S.G. § 2D1.1 by two levels. Rodriguez, however, was not sentenced based on U.S.S.G. § 2D1.1; instead, he was sentenced to the statutory mandatory minimum for his offenses. The Third Circuit has held that where, as here, the statutory mandatory minimum is applied, "the defendant [is] ineligible for modification under" § 3582(c)(2). *United States v. Ortiz-Vega*, 744 F.3d 869, 873 (3d Cir. 2014); see also U.S.S.G. § 1B1.10 application note (stating that a reduction under § 3582(c)(2) is not authorized where an amendment "does not have the effect of lowering the defendant's applicable guideline range because of the operation of another guideline or statutory provision (e.g., a statutory mandatory minimum term of imprisonment)" (emphasis added)).

Rodriguez also requests a review and reconsideration of his sentence (ECF No. 98) based on the Supreme Court's decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015). Rodriguez's argument regarding *Johnson* is questionable; however, it is in the form of a request, and therefore no response by the Court is appropriate.